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Board of Vocational Nursing
and Psychiatric Technicians

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2008-1410

KELLI PAIGE MARSH
P.O. Box 412
Oregon House, CA 95962
Vocational Nurse License No. VN 175136

A C C U S A T I O N

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians ("Board"), Department of Consumer Affairs.

2. On or about December 15, 1995, the Board issued Vocational Nurse License Number VN 175136 to Kelli Paige Marsh ("Respondent"). Respondent's vocational nurse license expired on March 18, 2010, and has not been renewed.

STATUTORY PROVISIONS

3. Business and Professions Code ("Code") section 2875 provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

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1 4. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a
2 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
3 period within which the license may be renewed, restored, reissued or reinstated. Pursuant to
4 Code section 2892.1, the Board may renew an expired license at any time within four years after
5 the expiration.

6 5. Code section 2878 states, in pertinent part:

7 The Board may suspend or revoke a license issued under this chapter [the
8 Vocational Nursing Practice Act (Bus. & Prof. Code § 2840, et seq.)] for any of the
following:

9 (a) Unprofessional conduct . . .

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11 (j) The commission of any act involving dishonesty, when that action is
12 related to the duties and functions of the licensee . . .

13 6. Code section 2878.5 states, in pertinent part:

14 In addition to other acts constituting unprofessional conduct within the
15 meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional
conduct for a person licensed under this chapter to do any of the following:

16 (a) Obtain or possess in violation of law, or prescribe, or except as
17 directed by a licensed physician and surgeon, dentist or podiatrist administer to
18 himself or herself or furnish or administer to another, any controlled substance as
defined in Division 10 of the Health and Safety Code, or any dangerous drug as
defined in Section 4022.

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20 (e) Falsify, or make grossly incorrect, grossly inconsistent, or
21 unintelligible entries in any hospital, patient, or other record pertaining to narcotics or
dangerous drugs as specified in subdivision (b).

22 7. Health and Safety Code section 11173, subdivision (a), states, in pertinent part:

23 No person shall obtain or attempt to obtain controlled substances, or
24 procure or attempt to procure the administration of or prescription for controlled
substances, (1) by fraud, deceit, misrepresentation, or subterfuge . . .

25 **COST RECOVERY**

26 8. Code section 125.3 provides, in pertinent part, that the Board may request the
27 administrative law judge to direct a licensee found to have committed a violation or violations of

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1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **CONTROLLED SUBSTANCES AT ISSUE**

4 9. "Percocet", a brand of oxycodone, is a Schedule II controlled substance as designated
5 by Health and Safety Code section 11055, subdivision (b)(1)(N).

6 10. "Norco", a brand of hydrocodone bitartrate and acetaminophen, is a Schedule III
7 controlled substance as designated by Health and Safety Code section 11056, subdivision (e)(4).

8 11. "Vicodin" is a compound consisting of 5 mg hydrocodone bitartrate, also known as
9 dihydrocodeinone, and 500 mg acetaminophen per tablet, and is a Schedule III controlled
10 substance as designated by Health and Safety Code section 11056, subdivision (e)(4).

11 12. "Ambien," a brand of zolpidem tartrate, is a Schedule IV controlled substance as
12 designated by Health and Safety Code section 11057.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Diversion of Controlled Substances)**

15 13. Respondent is subject to disciplinary action pursuant to Code section 2878,
16 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2878.5,
17 subdivision (a), in that in and between August and September 2008, while employed as the LVN
18 Charge Nurse at Yuba City Care Center ("Center") located in Yuba City, California, Respondent
19 obtained the controlled substances Percocet, Norco, Vicodin, and Ambien by fraud, deceit,
20 misrepresentation, or subterfuge in violation of Health and Safety Code section 11173,
21 subdivision (a), as follows: On and between August 9, 2008, and September 22, 2008,
22 Respondent signed out on the center's Controlled Drug Records various quantities of Percocet,
23 Norco, Vicodin, and Ambien for administration to residents 1 through 4, who had physician's
24 orders for the medications. Respondent failed to chart the administration of the medications in
25 the resident's Medication Records and otherwise account for the disposition of the medications,
26 as more particularly set forth in paragraph 14 below.

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1 e. On August 11, 2008, at 7:00 p.m., Respondent signed out on the Controlled Drug
2 Record one tablet of Percocet for the resident, but failed to chart the administration of the
3 Percocet on the resident's Medication Record or Nurse's Notes and otherwise account for the
4 disposition of the one tablet of Percocet.

5 f. On August 29, 2008, at 8:00 a.m., Respondent signed out on the Controlled Drug
6 Record one tablet of Norco for the resident, but failed to chart the administration of the Norco on
7 the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
8 the one tablet of Norco.

9 g. On August 29, 2008, at 5:00 p.m., Respondent signed out on the Controlled Drug
10 Record one tablet of Norco for the resident, but failed to chart the administration of the Norco on
11 the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
12 the one tablet of Norco.

13 h. On September 7, 2008, between 3:00 p.m. and 9:00 p.m., Respondent signed out on
14 the Controlled Drug Record a total of three tablets of Norco for the resident when, in fact, the
15 physician's order called for the administration of 1 tablet of Norco every four hours as needed.
16 Further, Respondent failed to chart the administration of the Norco on the resident's Medication
17 Record or Nurse's Notes and otherwise account for the disposition of the three tablets of Norco.

18 i. On September 9, 2008, at 4:00 p.m., Respondent signed out on the Controlled Drug
19 Record one tablet of Norco for the resident, but failed to chart the administration of the Norco on
20 the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
21 the one tablet of Norco.

22 j. On September 9, 2008, at 9:00 p.m., Respondent signed out on the Controlled Drug
23 Record one tablet of Norco for the resident, but failed to chart the administration of the Norco on
24 the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
25 the one tablet of Norco.

26 k. On September 10, 2008, at 3:00 p.m., Respondent signed out on the Controlled Drug
27 Record one tablet of Norco for the resident, but failed to chart the administration of the Norco on

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1 the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
2 the one tablet of Norco.

3 l. On September 10, 2008, at 9:00 p.m., Respondent signed out on the Controlled Drug
4 Record one tablet of Norco for the resident, but failed to chart the administration of the Norco on
5 the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
6 the one tablet of Norco.

7 m. On September 13, 2008, at 7:00 p.m., Respondent signed out on the Controlled Drug
8 Record one tablet of Norco for the resident, but failed to chart the administration of the Norco on
9 the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
10 the one tablet of Norco.

11 n. On September 14, 2008, at 4:30 p.m., Respondent signed out on the Controlled Drug
12 Record one tablet of Norco for the resident, but failed to chart the administration of the Norco on
13 the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
14 the one tablet of Norco.

15 o. On September 14, 2008, at 9:00 p.m., Respondent signed out on the Controlled Drug
16 Record one tablet of Norco for the resident, but failed to chart the administration of the Norco on
17 the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
18 the one tablet of Norco.

19 p. On September 15, 2008, at 3:00 p.m., Respondent signed out on the Controlled Drug
20 Record one tablet of Norco for the resident, but failed to chart the administration of the Norco on
21 the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
22 the one tablet of Norco.

23 q. On September 15, 2008, at 9:00 p.m., Respondent signed out on the Controlled Drug
24 Record one tablet of Norco for the resident, but failed to chart the administration of the Norco on
25 the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
26 the one tablet of Norco.

27 r. On September 16, 2008, at 3:00 p.m., Respondent signed out on the Controlled Drug
28 Record one tablet of Norco for the resident, but failed to chart the administration of the Norco on

1 the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
2 the one tablet of Norco.

3 s. On September 16, 2008, at 9:00 p.m., Respondent signed out on the Controlled Drug
4 Record one tablet of Norco for the resident, but failed to chart the administration of the Norco on
5 the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
6 the one tablet of Norco.

7 **Resident "2":**

8 t. On September 16, 2008, at 5:00 p.m., Respondent signed out on the Controlled Drug
9 Record one tablet of Vicodin for the resident, but failed to chart the administration of the Vicodin
10 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
11 the one tablet of Vicodin.

12 u. On September 19, 2008, at 6:00 p.m., Respondent signed out on the Controlled Drug
13 Record one tablet of Vicodin for the resident, but failed to chart the administration of the Vicodin
14 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
15 the one tablet of Vicodin.

16 **Resident "3":**

17 v. On September 2, 2008, at 8:50 p.m., Respondent signed out on the Controlled Drug
18 Record one tablet of Ambien for the resident, but failed to chart the administration of the Ambien
19 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
20 the one tablet of Ambien.

21 w. On September 3, 2008, at 8:00 p.m., Respondent signed out on the Controlled Drug
22 Record one tablet of Ambien for the resident, but failed to chart the administration of the Ambien
23 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
24 the one tablet of Ambien.

25 x. On September 4, 2008, at 8:50 p.m., Respondent signed out on the Controlled Drug
26 Record one tablet of Ambien for the resident, but failed to chart the administration of the Ambien
27 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
28 the one tablet of Ambien.

1 y. On September 7, 2008, at 8:00 p.m., Respondent signed out on the Controlled Drug
2 Record one tablet of Ambien for the resident, but failed to chart the administration of the Ambien
3 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
4 the one tablet of Ambien.

5 z. On September 8, 2008, at 8:00 p.m., Respondent signed out on the Controlled Drug
6 Record one tablet of Ambien for the resident, but failed to chart the administration of the Ambien
7 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
8 the one tablet of Ambien.

9 aa. On September 9, 2008, at 9:00 p.m., Respondent signed out on the Controlled Drug
10 Record one tablet of Ambien for the resident, but failed to chart the administration of the Ambien
11 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
12 the one tablet of Ambien.

13 bb. On September 10, 2008, at 9:00 p.m., Respondent signed out on the Controlled Drug
14 Record one tablet of Ambien for the resident, but failed to chart the administration of the Ambien
15 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
16 the one tablet of Ambien.

17 cc. On September 13, 2008, at 8:45 p.m., Respondent signed out on the Controlled Drug
18 Record one tablet of Ambien for the resident, but failed to chart the administration of the Ambien
19 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
20 the one tablet of Ambien.

21 dd. On September 14, 2008, at 9:00 a.m., Respondent signed out on the Controlled Drug
22 Record one tablet of Ambien for the resident, but failed to chart the administration of the Ambien
23 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
24 the one tablet of Ambien.

25 ee. On September 15, 2008, at 9:00 p.m., Respondent signed out on the Controlled Drug
26 Record one tablet of Ambien for the resident, but failed to chart the administration of the Ambien
27 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
28 the one tablet of Ambien.

1 ff. On September 16, 2008, at 9:00 p.m., Respondent signed out on the Controlled Drug
2 Record one tablet of Ambien for the resident, but failed to chart the administration of the Ambien
3 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
4 the one tablet of Ambien.

5 gg. On September 19, 2008, at 9:00 p.m., Respondent signed out on the Controlled Drug
6 Record one tablet of Ambien for the resident, but failed to chart the administration of the Ambien
7 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
8 the one tablet of Ambien.

9 hh. On September 20, 2008, at 9:00 p.m., Respondent signed out on the Controlled Drug
10 Record one tablet of Ambien for the resident, but failed to chart the administration of the Ambien
11 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
12 the one tablet of Ambien.

13 ii. On September 21, 2008, at 9:00 p.m., Respondent signed out on the Controlled Drug
14 Record one tablet of Ambien for the resident, but failed to chart the administration of the Ambien
15 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
16 the one tablet of Ambien.

17 jj. On September 22, 2008, at 9:00 p.m., Respondent signed out on the Controlled Drug
18 Record one tablet of Ambien for the resident, but failed to chart the administration of the Ambien
19 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
20 the one tablet of Ambien.

21 **Resident "4":**

22 kk. On September 2, 2008, at 8:15 p.m., Respondent signed out on the Controlled Drug
23 Record one tablet of Vicodin for the resident, but failed to chart the administration of the Vicodin
24 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
25 the one tablet of Vicodin.

26 ll. On September 3, 2008, at 4:00 p.m., Respondent signed out on the Controlled Drug
27 Record one tablet of Vicodin for the resident, but failed to chart the administration of the Vicodin

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1 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
2 the one tablet of Vicodin.

3 mm. On September 3, 2008, at 9:00 p.m., Respondent signed out on the Controlled Drug
4 Record one tablet of Vicodin for the resident, but failed to chart the administration of the Vicodin
5 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
6 the one tablet of Vicodin.

7 nn. On September 4, 2008, at 3:00 p.m., Respondent signed out on the Controlled Drug
8 Record one tablet of Vicodin for the resident, but failed to chart the administration of the Vicodin
9 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
10 the one tablet of Vicodin.

11 oo. On September 7, 2008, at 6:00 p.m., Respondent signed out on the Controlled Drug
12 Record one tablet of Vicodin for the resident, but failed to chart the administration of the Vicodin
13 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
14 the one tablet of Vicodin.

15 pp. On September 8, 2008, at 7:00 p.m., Respondent signed out on the Controlled Drug
16 Record one tablet of Vicodin for the resident, but failed to chart the administration of the Vicodin
17 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
18 the one tablet of Vicodin.

19 qq. On September 9, 2008, at 7:00 p.m., Respondent signed out on the Controlled Drug
20 Record one tablet of Vicodin for the resident, but failed to chart the administration of the Vicodin
21 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
22 the one tablet of Vicodin.

23 rr. On September 13, 2008, at 8:00 p.m., Respondent signed out on the Controlled Drug
24 Record one tablet of Vicodin for the resident, but failed to chart the administration of the Vicodin
25 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
26 the one tablet of Vicodin.

27 ss. On September 15, 2008, at 7:00 p.m., Respondent signed out on the Controlled Drug
28 Record one tablet of Vicodin for the resident, but failed to chart the administration of the Vicodin

1 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
2 the one tablet of Vicodin.

3 tt. On September 21, 2008, at 7:00 p.m., Respondent signed out on the Controlled Drug
4 Record one tablet of Vicodin for the resident, but failed to chart the administration of the Vicodin
5 on the resident's Medication Record or Nurse's Notes and otherwise account for the disposition of
6 the one tablet of Vicodin.

7 THIRD CAUSE FOR DISCIPLINE

8 (Dishonest Acts)

9 15. Respondent is subject to disciplinary action pursuant to Code section 2878,
10 subdivision (j), in that in and between August and September 2008, Respondent committed acts
11 involving dishonesty while licensed as a vocational nurse, as set forth in paragraph 14 above.

12 PRAYER

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
15 issue a decision:

- 16 1. Revoking or suspending Vocational Nurse License Number VN 175136, issued to
17 Kelli Paige Marsh;
- 18 2. Ordering Kelli Paige Marsh to pay the Board of Vocational Nursing and Psychiatric
19 Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to
20 Business and Professions Code section 125.3;
- 21 3. Taking such other and further action as deemed necessary and proper.

22
23 DATED: February 18, 2011



TERESA BELLO-JONES, J.D., M.S.N., R.N.

Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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